

THE CODE OF CRIMINAL PROCEDURE (EXCERPT)
Act 175 of 1927

764.1a Complaint; allegations; swearing before magistrate or clerk; finding of reasonable cause; testimony; supplemental affidavits; basis of factual obligations; complaint alleging violation of MCL 750.81 or 750.81a or corresponding ordinance; compliance with MCL 764.1; refusal to accept complaint prohibited; definitions.

Sec. 1a. (1) A magistrate shall issue a warrant upon presentation of a proper complaint alleging the commission of an offense and a finding of reasonable cause to believe that the individual accused in the complaint committed that offense. The complaint shall be sworn to before a magistrate or clerk.

(2) The finding of reasonable cause by the magistrate may be based upon 1 or more of the following:

(a) Factual allegations of the complainant contained in the complaint.

(b) The complainant's sworn testimony.

(c) The complainant's affidavit.

(d) Any supplemental sworn testimony or affidavits of other individuals presented by the complainant or required by the magistrate.

(3) The magistrate may require sworn testimony of the complainant or other individuals. Supplemental affidavits may be sworn to before an individual authorized by law to administer oaths. The factual allegations contained in the complaint, testimony, or affidavits may be based upon personal knowledge, information and belief, or both.

(4) The magistrate shall not refuse to accept a complaint alleging a violation of section 81 or 81a of the Michigan penal code, 1931 PA 328, MCL 750.81 and 750.81a, or a violation of a local ordinance substantially corresponding to section 81 of the Michigan penal code, 1931 PA 328, MCL 750.81, by the spouse of the victim, a former spouse of the victim, an individual with whom the victim has had a child in common, an individual with whom the victim has or has had a dating relationship, or an individual residing or having resided in the same household as the victim on grounds that the complaint is signed upon information and belief by an individual other than the victim.

(5) The magistrate shall not refuse to accept a complaint alleging that a crime was committed in which the victim is a vulnerable adult on the grounds that the complaint is signed upon information and belief by an individual other than the victim.

(6) A warrant may be issued under this section only upon compliance with the requirements of section 1 of this chapter.

(7) As used in this section:

(a) "Dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. Dating relationship does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.

(b) "Vulnerable adult" means that term as defined in section 145m of the Michigan penal code, 1931 PA 328, MCL 750.145m.

History: Add. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1994, Act 70, Eff. July 1, 1994;—Am. 2005, Act 106, Imd. Eff. Sept. 14, 2005;—Am. 2012, Act 177, Imd. Eff. June 19, 2012.